

Legislation Limiting NEPA and Other Environmental Requirements

HIGHWAY PROJECTS

CITE	SUBJECT	TEXT	KEY ELEMENTS
105 P.L. 174, § 3002	Trappers Loop Road – Snowbasin Ski Area (Utah)	Construction of the Trappers Loop connector road, and any related actions, by any Federal or state agency or other entity are deemed to be non-discretionary actions authorized and directed by Congress under title III, section 304(e)(3) of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4093) [i.e., the Snowbasin Land Exchange Act, 104 P.L. 333; see next table.]	<ul style="list-style-type: none"> ▪ Defines action as “non-discretionary” and thereby implicitly exempts it from NEPA and other laws.
105 P.L. 178, § 1117	Corridor O (Pennsylvania)	Notwithstanding any other provision of law, the Commonwealth of Pennsylvania is authorized to proceed with engineering, final design, and construction of Corridor O of the Appalachian development highway system between Bald Eagle and Interstate Route 80. All records of decision relating to Corridor O issued prior to the date of enactment of this Act shall remain in effect.	<ul style="list-style-type: none"> ▪ Authorizes project to proceed ▪ Provides that existing RODs remain in effect ▪ Implicitly exempts project from NEPA and other laws.

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CITE	SUBJECT	TEXT	KEY ELEMENTS
102 P.L. 240	Orange County Toll Projects – Exemption from Section 4(f) Only	<p>SEC. 1065. ORANGE COUNTY TOLL PILOT PROJECTS.</p> <p>(a) Exemption of Certain Lands. For the purposes of any approval by the Secretary of proposed highway improvements authorized by section 129(d)(3) of title 23, United States Code, in Orange County, California, pursuant to section 303 of title 49, [**2006] United States Code, and section 138 of title 23, United States Code, those sections (collectively known as "section 4(f)") shall not be applicable to public park, recreation area, wildlife and waterfowl refuge (collectively referred to hereinafter in this section as "parkland") --</p> <p>(1) that are acquired by a public entity after a governmental agency's approval of a State or Federal environmental document established the location of a highway adjacent to the parklands; or</p> <p>(2) where the planning or acquisition documents for the parklands specifically referred to or reserved the specific location of the highway.</p> <p>(b) Applicability. Without limiting its prospective application, this section shall apply to any approval of the proposed highway improvements by the Secretary prior to the effective date of this section only if --</p> <p>(1) the approximately 360 acres comprising the proposed Upper Peters Canyon Regional Park in Orange County, California, is conveyed to a public agency for use as public park and recreation land or a wildlife or waterfowl refuge, or both, within 90 days of such effective date;</p> <p>(2) the approximately 100 acres of lands described as the Dedication Area in that certain Option Agreement dated April 16, 1991, by and between the city of Laguna Beach and the owner thereof is conveyed to a public agency for use as public park and recreation land for a wildlife or waterfowl refuge, or both, within 90 days of such effective date.</p> <p>(c) Purpose. This section is adopted in recognition of unique circumstances in Orange County, California, including a comprehensive land use planning process; the joint planning of thousands of acres of parklands with the locations of the proposed highway improvement; the provision of rights-of-way for high occupancy vehicle lanes and fixed rail transit in the 3 transportation corridors; the use of toll financing, which will discourage excessive automobile travel; and the inclusion of a county-wide growth management element and substantial local transit funding commitment in the county's voter-approved supplemental sales tax for transportation.</p> <p>(d) Limitations on Statutory Construction. In no event shall this section be construed to apply to any other highway projects other than the proposed San Joaquin Hills, Foothill, and Eastern Transportation Corridor highways in Orange County, California. Nothing in this section is intended to waive any provision of law (including the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act) other than the specific exemptions to section 303 of title 49 and section 138 of title 23, United States Code. Nothing in this section shall be construed to give effect to or approve regulations issued pursuant to section 4(f) and published in the Federal Register on April 1, 1991 (56 Federal Register 62).</p>	<ul style="list-style-type: none"> ▪ Exempts certain park lands from Section 4(f) for specific projects ▪ Not a blanket waiver of Section 4(f) for the project ▪ Specifically preserves applicability of NEPA, Section 106, and ESA ▪ Exemption from 4(f) is based on "unique circumstances" ▪ Closely parallels exemptions recognized in FHWA regulations and Section 4(f) policy paper for jointly planned development.

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NON-HIGHWAY PROJECTS

CITE	SUBJECT	TEXT	KEY ELEMENTS
104 P.L. 333, § 304	Snowbasin Land Exchange Act	Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this section and all determinations, authorizations, and actions taken by the Secretary pursuant to this section pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.	<ul style="list-style-type: none"> ▪ Defines action as “non-discretionary” ▪ Find action to be in compliance with all federal requirements (does not include state laws) ▪ Implicitly exempts project from NEPA review.
7 USC 2814	Management of undesirable plants on Federal lands	(b) Environmental impact statements. In the event an environmental assessment or environmental impact statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to implement plant control agreements, Federal agencies shall complete such assessments or statements within 1 year after the requirement for such assessment or statement is ascertained.	<ul style="list-style-type: none"> ▪ Time limit on EIS – 12 months
10 USC 2667	Leases: non-excess property of military departments	<p>(4) (A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.</p> <p>(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final disposal decision with respect to the property, even if final disposal of the property is delayed until completion of the term of the interim lease. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.</p> <p>(C) Subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would--</p> <p>(i) significantly affect the quality of the human environment; or</p> <p>(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.</p> <p>(5) [Redesignated]</p>	<ul style="list-style-type: none"> ▪ Limit scope of EIS – impacts analysis (not alternatives) ▪ Eliminates segmentation issue

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CITE	SUBJECT	TEXT	KEY ELEMENTS
15 USC 719f	Alaska gas pipeline system – congressional review	<p>(d) Rules under rulemaking powers of Congress; change of rules; "resolution" defined; referral to congressional committees; debate limitation; motion for consideration of resolution; debate on resolution; nondebatable motions and appeals from procedural decisions.</p> <p>(1) This subsection is enacted by Congress--</p> <p>(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and</p> <p>(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.</p> <p>(2) For purposes of this Act, the term "resolution" means (A) a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on -----, 19--, and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the Natural [National] Environmental Policy Act of 1969."; the blank space therein shall be filled with the date on which the President submits his decision to the House of Representatives and the Senate; or (B) a joint resolution described in subsection (g).</p> <p>. . .</p> <p>(e) Presidential finding respecting and supplementation or modification of environmental impact statement; submittal to congressional committees. The President shall find that any required environmental impact statement relative to the Alaska natural gas transportation system designated for approval by the President has been prepared and that such statement is in compliance with the National Environmental Policy Act of 1969. Such finding shall be set forth in the report of the President submitted under section 7 [15 USCS § 719e]. The President may supplement or modify the environmental impact statements prepared by the Commission or other Federal officers or agencies. Any such environmental impact statement shall be submitted contemporaneously with the transmittal to the Senate and House of Representatives of the President's decision pursuant to section 7(b) [15 USCS § 719e (b)] or subsection (b) of this section.</p>	<ul style="list-style-type: none"> Establishes procedure for EIS to be approved by Congress

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
15 USC 719h	Alaska gas pipeline system – judicial review	<p>(a) Exclusiveness of remedy. Notwithstanding any other provision of law, the actions of Federal officers or agencies taken pursuant to section 9 of this Act [15 USCS § 719g], shall not be subject to judicial review except as provided in this section.</p> <p>(b) Limitations for filing claims.</p> <p>(1) Claims alleging the invalidity of this Act may be brought not later than the 60th day following the date a decision takes effect pursuant to section 8 of this Act [15 USCS § 719f].</p> <p>(2) Claims alleging that an action will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.</p> <p>(c) Exclusive jurisdiction of the Special Court; barred claims; precedence and expedition of proceedings; decision; conclusiveness of environmental impact statements.</p> <p>(1) A claim under subsection (b) shall be barred unless a complaint is filed prior to the expiration of such time limits in the United States Court of Appeals for the District of Columbia acting as a Special Court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act [enacted Oct. 22, 1976].</p> <p>(2) [Repealed]</p> <p>(3) The enactment of a joint resolution under section 8 [15 USCS § 719f] approving the decision of the President shall be conclusive as to the legal and factual sufficiency of the environmental impact statements submitted by the President relative to the approved transportation system and no court shall have jurisdiction to consider questions respecting the sufficiency of such statements under the National Environmental Policy Act of 1969.</p>	<ul style="list-style-type: none"> ▪ 60-day period to file claims ▪ exclusive jurisdiction in D.C. Circuit ▪ joint resolution by Congress precludes judicial review of NEPA issues

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CITE	SUBJECT	TEXT	KEY ELEMENTS
15 USC 793	Low sulfur fuel program	<p>(c) Major Federal actions significantly affecting the quality of the human environment.</p> <p>(1) No action taken under the Clean Air Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856) [42 USCS §§ 4321 et seq.].</p> <p>(2) No action under section 2 of this Act [15 USCS § 792] for a period of one year after initiation of such action shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 [42 USCS §§ 4321 et seq.]. However, before any action under section 2 of this Act [15 USCS § 792] that has a significant impact on the environment is taken, if practicable, or in any event within sixty days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act [42 USCS § 4332(2)(C)], to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act [42 USCS §§ 4321 et seq.] by the appropriate Federal agency. Any action taken under section 2 of this Act [15 USCS § 792] which will be in effect for more than a one-year period or any action to extend an action taken under section 2 of this Act [15 USCS § 792] to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act [42 USCS §§ 4321 et seq.], notwithstanding any other provision of this Act.</p> <p>(d) Importation of hydroelectric energy. In order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953 [15 USCS § 717b note], for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) [42 USCS § 4332] for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.</p>	<ul style="list-style-type: none"> ▪ NEPA not applicable ▪ But “environmental evaluation” required ▪ Must be “equivalent” to NEPA “to the greatest extent practicable” ▪ Directs FPC to issue Presidential Permit w/o EIS

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CITE	SUBJECT	TEXT	KEY ELEMENTS
16 USC 1410h	Establishment of new areas – AK national parks	<p>(d) The Secretary [of Interior] and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an environmental impact statement which would otherwise be required under section 102(2)(C) of the National Environmental Policy Act [42 USCS § 4332(2)(C)]. Such analysis shall be deemed to satisfy all requirements of that Act [42 USCS §§ 4321 et seq.] and shall not be subject to judicial review. Such environmental and economic analysis shall be prepared in accordance with the procedural requirements of section 1104(e) [16 USCS § 3164(e)]. The Secretaries in preparing the analysis shall consider the following--</p> <p>(i) Alternative routes including the consideration of economically feasible and prudent alternative routes across the preserve which would result in fewer or less severe adverse impacts upon the preserve.</p> <p>(ii) The environmental and social and economic impact of the right-of-way including impact upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities, and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.</p> <p>(e) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve. Such right-of-way shall be issued in accordance with the provisions of section 1107 of this Act [16 USCS § 3167].</p>	<ul style="list-style-type: none"> ▪ “In lieu of NEPA” provision ▪ 12-month deadline ▪ Limit on scope ▪ Joint preparation required ▪ Designates lead agencies
16 USC 497c	Ski permits	<p>(i) To reduce Federal costs in administering the provisions of this section, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.).</p>	<ul style="list-style-type: none"> ▪ “not a major federal action” – no NEPA required
16 USC 1379	MMPA – transfer of management authority	<p>(g) Environmental impact statement not required. Neither the transfer of management authority to a State under subsection (b)(1), nor the revocation or voluntary return of such authority under subsection (e), shall be deemed to be an action for which an environmental impact statement is required under section 102 of the National Environmental Policy Act of 1969 [42 USCS § 4332].</p>	<ul style="list-style-type: none"> ▪ “not a major federal action” – no NEPA required

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CITE	SUBJECT	TEXT	KEY ELEMENTS
16 USC 3164	ANILCA – transportation and utility systems	<p>(e) Environmental impact statement. The draft of any environmental impact statement required under the National Environmental Policy Act of 1969 [42 USCS §§ 4321 et seq.] in connection with any application filed under this section shall be completed, within nine months from the date of filing, by the head of the Federal agency assigned lead responsibility for the statement. Any such statement shall be jointly prepared by all Federal agencies with which the application was filed under subsection (c). The final environmental impact statement shall be completed within one year from the date of such filing. Such nine-month and one-year periods may be extended for good cause by the Federal agency head assigned lead responsibility for the preparation of such statement if he determines that additional time is necessary for such preparation, notifies the applicant in writing of such determination, and publishes notice of such determination, together with the reasons therefor, in the Federal Register. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 [43 USCS § 1734] shall apply to each environmental impact statement under this subsection in the same manner as such provisions apply to applications relating to the public lands referred to in such section 304 [43 USCS § 1734]. The Federal agency assigned lead responsibility shall, in conjunction with such other Federal agencies before which the application is pending, hold public hearings in the District of Columbia and an appropriate location in the State on each draft joint environmental impact statement and the views expressed therein shall be considered by all Federal agencies concerned before publication of the final joint environmental impact statement.</p> <p>(f) Other views. During both the nine-month period, and the succeeding three-month period plus any extension thereof provided for in subsection (e), the heads of the Federal agencies concerned shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State, affected units of local government in the State, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations regarding the application submitted by interested individuals and organizations.</p>	<ul style="list-style-type: none"> ▪ 9-month deadline for DEIS ▪ joint preparation of EIS required by all agencies ▪ 12-month deadline for FEIS ▪ deadlines extended for “good cause” ▪ require consideration of state and local views

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CITE	SUBJECT	TEXT	KEY ELEMENTS
16 USC 3164	ANILCA – transportation and utility systems	<p>(g) Agency decision.</p> <p>(1) Within four months after the final environmental impact statement is published in accordance with subsection (e) with respect to any transportation or utility system, each Federal agency shall make a decision to approve or disapprove, in accordance with applicable law, each authorization that applies with respect to the system and that is within the jurisdiction of that agency.</p> <p>(2) The head of each Federal agency, in making a decision referred to in paragraph (1), shall consider, and make detailed findings supported by substantial evidence, with respect to--</p> <p>(A) the need for, and economic feasibility of, the transportation or utility system;</p> <p>(B) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the routing of the system through or within a conservation system unit, national recreation area, or national conservation area and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;</p> <p>(C) the feasibility and impacts of including different transportation or utility systems in the same area;</p> <p>(D) short- and long-term social, economic, and environmental impacts of national, State, or local significance, including impacts on fish and wildlife and their habitat, and on rural, traditional lifestyles;</p> <p>(E) the impacts, if any, on the national security interests of the United States, that may result from approval or denial of the application for a transportation or utility system;</p> <p>(F) any impacts that would affect the purposes for which the Federal unit or area concerned was established;</p> <p>(G) measures which should be instituted to avoid or minimize negative impacts; and</p> <p>(H) the short- and long-term public values which may be adversely affected by approval of the transportation or utility system versus the short- and long-term public benefits which may accrue from such approval.</p>	<ul style="list-style-type: none"> ▪ Deadline for decision (4 months after FEIS) ▪ List findings required in decision

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
16 USC 3233	ANILCA – National need mineral activity recommendati on process	<p>§ 3233. Expedited Congressional review</p> <p>(a) Rulemaking. This subsection is enacted by Congress--</p> <p>(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and</p> <p>(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.</p> <p>(b) Resolution. For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President for-----in-----submitted to the Congress on ----- 19-----.", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 [42 USCS §§ 4321 et seq.] to the recommendation.</p> <p>(c) Referral. A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.</p> <p>(d) Other procedures. Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act [15 USCS § 719f(d)] shall apply to the consideration of the resolution</p>	<ul style="list-style-type: none"> ▪ NEPA waiver by joint resolution of Congress – potential

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16 USC 3636	Pacific salmon	<p>§ 3636. Rulemaking</p> <p>(a) Promulgation of regulations by Secretary of Commerce. The Secretary, in consultation with the Secretary of the Interior, the Secretary of the Department in which the Coast Guard is operating and the appropriate Regional Fishery Management Council, shall promulgate such regulations as may be necessary to carry out the United States international obligations under the Treaty and this title, pursuant to section 6 [16 USCS § 3635], as well as conforming amendatory regulations applicable to the United States Exclusive Economic Zone. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located. Such regulations as are necessary and appropriate to carry out obligations of the United States under the Treaty involve a foreign affairs function, and as such shall not be subject to sections 4 through 8 of the Administrative Procedure Act (5 U.S.C. 553-557), or the National Environmental Policy Act (42 U.S.C. 4321 et seq.).</p> <p>(b) Additions to fishery regimes and Fraser River Panel regulations. The Secretary, in cooperation with the Regional Fishery Management Councils, States, and treaty Indian tribes, may promulgate regulations applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, fishery regimes and Fraser River Panel regulations adopted under the Treaty. Such regulations shall not discriminate between residents of different States.</p> <p>(c) Judicial review. Regulations promulgated by the Secretary under this title shall be subject to judicial review by the district courts of the United States to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, [5 USCS §§ 701 et seq.] except that section 705 of such title is not applicable, and the appropriate court shall only set aside any such regulation on a ground specified in section 706(2)(A), (B), (C), or (D) of such title. A civil action filed pursuant to this section shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of the United States district court at that time, and shall be expedited in every way by such court and any appellate court.</p>	<ul style="list-style-type: none"> ▪ NEPA waiver for regulations needed to carry out treaty obligations ▪ Limits on judicial review
23 USC 134	Metropolitan planning	<p>(o) Continuation of current review practice. Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).</p>	<ul style="list-style-type: none"> ▪ Exclusion of planning decisions from NEPA review

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CITE	SUBJECT	TEXT	KEY ELEMENTS
25 USC 4226	Housing assistance for native Hawaiians	<p>(a) In general.</p> <p>(1) Release of funds.</p> <p>(A) In general. The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure--</p> <p>(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title [25 USCS §§ 4221 et seq.]; and</p> <p>(ii) to the public undiminished protection of the environment.</p> <p>(B) Alternative environmental protection procedure. In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.</p>	<ul style="list-style-type: none"> Alternative procedures in lieu of NEPA – state assumes NEPA role
30 USC 185	Rights-of-way for pipelines through federal lands	<p>(t) Existing rights-of-way. The Secretary or agency head may ratify and confirm any right-of-way or permit for an oil or gas pipeline or related facility that was granted under any provision of law before the effective date of this subsection [effective Nov. 16, 1973], if it is modified by mutual agreement to comply to the extent practical with the provisions of this section. Any action taken by the Secretary or agency head pursuant to this subsection shall not be considered a major Federal action requiring a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1970 (Public Law 90[91]-190; 42 U.S.C. 4321).</p>	<ul style="list-style-type: none"> Ratify existing ROW without further NEPA review

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CITE	SUBJECT	TEXT	KEY ELEMENTS
30 USC 1251	Coal leasing	<p>(a) Not later than the end of the ninety-day period immediately following the date of enactment of this Act [enacted Aug. 3, 1977], the Secretary shall promulgate and publish in the Federal Register regulations covering an interim regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions set out in section 502(c) of this Act [30 USCS § 1252(c)]. The issuance of the interim regulations shall be deemed not to be a major Federal action within the meaning of section 102(2)(c)[(C)] of the National Environmental Policy Act of 1969 [42 U.S.C. 4332]. Such regulations, which shall be concise and written in plain, understandable language shall not be promulgated and published by the Secretary until he has--</p> <p>(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than thirty days after such publication to submit written comments thereon;</p> <p>(B) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1151-1175], and the Clean Air Act, as amended [42 U.S.C. 1857 et seq.]; and</p> <p>(C) held at least one public hearing on the proposed regulations.</p> <p>The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.</p>	<ul style="list-style-type: none"> Interim regulations not a major federal action
30 USC 1419	Deep seabed mineral resources	<p>(d) Environmental impact statements on issuance of licenses and permits. The issuance of, but not the certification of an application for, any license or permit under this title [30 USCS §§ 1411 et seq.] shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 [42 USCS § 4332]. In preparing an environmental impact statement pursuant to this subsection, the Administrator shall consult with the agency heads referred to in subsection (b) and shall take into account, and give due consideration to, the relevant information contained in any applicable studies and any other environmental impact statement prepared pursuant to this section. Each draft environmental impact statement prepared pursuant to this subsection shall be published, with the terms, conditions, and restrictions proposed pursuant to section 105(b) [30 USCS § 1415(b)], within 180 days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the application for the license or permit concerned is certified by the Administrator. Each final environmental impact statement shall be published 180 days (or such longer period as the Administrator may establish for good cause shown in writing) following date on which the draft environmental impact statement is published.</p>	<ul style="list-style-type: none"> 180-day deadline for DEIS (can be extended) 180 additional days for FEIS (also can be extended)

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
33 USC 1344	Wetlands permits	(r) Federal projects specifically authorized by Congress. The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of enactment of this subsection [enacted Dec. 27, 1977], is not prohibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 301(a) or 402 of the Act [33 USCS § 1311(a) or 1342] (except for effluent standards or prohibitions under section 307 [33 USCS § 1317]), if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b)(1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for such construction.	<ul style="list-style-type: none"> ▪ Congressional approval of EIS
33 USC 1504	Deepwater ports	(f) Environmental impact statement for single application area; criteria. For all timely applications covering a single application area, the Secretary, in cooperation with other involved Federal agencies and departments, shall, pursuant to section 102(2)(C) of the National Environmental Policy Act [42 USCS § 4332(2)(c)], prepare a single, detailed environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. In preparing such statement the Secretary shall consider the criteria established under section 6 of this Act [33 USCS § 1505].	<ul style="list-style-type: none"> ▪ Single EIS must be prepared by all agencies ▪ Specific criteria must be considered

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CITE	SUBJECT	TEXT	KEY ELEMENTS
33 USC 1505	Deepwater ports – criteria referenced in 1504	<p>Establishment; evaluation of proposed deepwater ports. The Secretary, in accordance with the recommendations of the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration and after consultation with any other Federal departments and agencies having jurisdiction over any aspect of the construction or operation of a deepwater port, shall establish, as soon as practicable after the date of enactment of this Act [enacted Jan. 3, 1975], environmental review criteria consistent with the National Environmental Policy Act. Such criteria shall be used to evaluate a deepwater port as proposed in an application, including--</p> <p>(1) the effect on the marine environment;</p> <p>(2) the effect on oceanographic currents and wave patterns;</p> <p>(3) the effect on alternate uses of the oceans and navigable waters, such as scientific study, fishing, and exploitation of other living and nonliving resources;</p> <p>(4) the potential dangers to a deepwater port from waves, winds, weather, and geological conditions, and the steps which can be taken to protect against or minimize such dangers;</p> <p>(5) effects of land-based developments related to deepwater port development;</p> <p>(6) the effect on human health and welfare; and</p> <p>(7) such other considerations as the Secretary deems necessary or appropriate.</p> <p>(b) Review and revision. The Secretary shall periodically review and, whenever necessary, revise in the same manner as originally developed, criteria established pursuant to subsection (a) of this section.</p> <p>(c) Concurrent development of criteria and regulations. Criteria established pursuant to this section shall be developed concurrently with the regulations in section 5(a) of this Act [33 USCS § 1504(a)]and in accordance with the provisions of that subsection.</p>	<ul style="list-style-type: none"> Environmental review criteria for NEPA process
42 USC 2297h-f	Leasing of gaseous diffusion facilities	<p>(g) Waiver of EIS requirement. The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).</p>	<ul style="list-style-type: none"> Waiver of NEPA – no “major federal action”

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CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 5159	Disaster relief	An action which is taken or assistance which is provided pursuant to section 402, 403, 406, 407, or 502 [42 USCS § 5170a, 5170b, 5172, 5173, or 5192], including such assistance provided pursuant to the procedures provided for in section 422 [42 USCS § 5189], which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 USCS §§ 4321 et seq.]. Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 [42 USCS §§ 4321 et seq.] to other Federal actions taken under this Act or under any other provisions of law.	<ul style="list-style-type: none"> NEPA waiver – no “major federal action”
42 USC 6508	Natl petroleum reserve – alaska	<p>. . .</p> <p>Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve--Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register.</p> <p>The detailed environmental studies and assessments that have been conducted on the exploration program and the comprehensive land-use studies carried out in response to sections 105(b) and (c) of Public Law 94-258 [42 USCS § 6505(b) and (c)] shall be deemed to have fulfilled the requirements of section 102(2)(c) of the National Environmental Policy Act (Public Law 91-190), with regard to the first two oil and gas lease sales in the National Petroleum Reserve-Alaska: Provided, That not more than a total of 2,000,000 acres may be leased in these two sales: Provided further, That any exploration or production undertaken pursuant to this section shall be in accordance with section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504).</p>	<ul style="list-style-type: none"> 60-day deadline for NEPA lawsuit (from notice of availability) Completed studies deemed to satisfy NEPA
42 USC 7153	DOE – leasing of mineral resources	(d) Preparation of environmental impact statement. The Department of the Interior shall be the lead agency for the purpose of preparation of an environmental impact statement required by section 102(2)(C) of the National Environmental Policy Act of 1969 [42 USCS § 4332(2)(C)] for any action with respect to the Federal leases taken under the authority of this section, unless the action involves only matters within the exclusive authority of the Secretary.	<ul style="list-style-type: none"> Designation of lead agency for EIS

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 8473	Power plants	<p>The following actions are not deemed to be major Federal actions for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 [42 USCS § 4332(2)(C)]</p> <p>(1) the grant or denial of any temporary exemption under this Act for any electric powerplant;</p> <p>(2) the grant or denial of any permanent exemption under this Act for any existing electric powerplant, other than an exemption--</p> <p>(A) under section 312(c) [42 USCS § 8352(c)], relating to cogeneration;</p> <p>(B) [Deleted]</p> <p>(C) under section 312(b) [42 USCS § 8352(b)], relating to certain State or local requirements;</p> <p>(D) under section 312(g) [42 USCS § 8352(g)], relating to certain intermediate load powerplants; and</p> <p>(3) the grant or denial of any exemption under this Act for any powerplant for which the Secretary finds, in consultation with the appropriate Federal agency, and publishes such finding that an environmental impact statement is required in connection with another Federal action and such statement will be prepared by such agency and will reflect the exemption adequately.</p> <p>Except as provided in the preceding provisions of this section, any determination of what constitutes or does not constitute a major Federal action shall be made under section 102 of the National Environmental Policy Act of 1969 [42 USCS § 4332].</p>	<ul style="list-style-type: none"> NEPA waiver – no “major federal action”
42 USC 9117	Ocean thermal energy conversion facilities	<p>(e) Environmental impact statement. The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)]. For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) [42 USCS § 4332(2)(C)] and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 102(d) of this title [42 USCS § 9112(d)]. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within 180 days after notice of the application has been published pursuant to section 102(d) of this title [42 USCS § 9112(d)]. Each final environmental impact statement shall be published not later than 90 days following the date on which public hearings are concluded pursuant to section 102(g) of this title [42 USCS § 9112(g)]. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.</p>	<ul style="list-style-type: none"> Requires single EIS by all federal agencies with approval authority 180-day deadline for Draft EIS 90-day deadline for Final EIS
42 USC 10141	EPA standards re high-level radioactive waste	<p>(c) Environmental impact statement. The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)], or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act [42 USCS § 4332(2)(E), (F)].</p>	<ul style="list-style-type: none"> NEPA review not required (under either provision of NEPA)

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 10155	Storage of spent nuclear fuel	<p>(c) Environmental review.</p> <p>(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).</p> <p>(2) (A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at the site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include--</p> <p>(i) an estimate of the amount of storage capacity to be made available at such site;</p> <p>(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;</p> <p>(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;</p> <p>(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;</p> <p>(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;</p> <p>(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and</p> <p>(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.</p> <p>(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code [5 USCS §§ 701 et seq.]. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).</p> <p>(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119 [42 USCS § 10139].</p>	<ul style="list-style-type: none"> ▪ Sets clear threshold for EIS vs. EA ▪ Defines elements EA must include ▪ Defines EA as final agency action ▪ Limits judicial review of EA to elements listed in statute

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 10139	Judicial review provision cited in 42 USC 10155	<p>10139. Judicial review of agency actions</p> <p>(a) Jurisdiction of United States Courts of Appeals.</p> <p>(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action--</p> <p>(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle [42 USCS §§ 10131 et seq.];</p> <p>(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle [42 USCS §§ 10131 et seq.];</p> <p>(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle [42 USCS §§ 10131 et seq.];</p> <p>(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle [42 USCS §§ 10131 et seq.], or as required under section 135(c)(1) [42 USCS § 10155(c)(1)], or alleging a failure to prepare such statement with respect to any such action;</p> <p>(E) for review of any environmental assessment prepared under section 112(b)(1) or 135(c)(2) [42 USCS § 10132(b)(1) or 10155(c)(2)]; or</p> <p>(F) for review of any research and development activity under title II [42 USCS §§ 10191 et seq.].</p> <p>(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.</p> <p>[(b)](c) Deadline for commencing action. A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.</p>	<ul style="list-style-type: none"> ▪ Exclusive jurisdiction in Court of Appeals ▪ 180-day deadline to file lawsuit

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 10161	Disposal of high-level radioactive waste	<p>(c) Environmental impact statements.</p> <p>(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act [42 USCS §§ 4321 et seq.], an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.</p> <p>(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).</p>	<ul style="list-style-type: none"> ▪ Requires EA, not EIS ▪ EA to be “based on available information” ▪ Submit EA to Congress ▪ If Congress approves, NEPA review required for construction itself ▪ Not required to consider need or alternatives

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 10165	Disposal of high-level radioactive waste	<p>(a) In general. The Secretary may select the site evaluated under section 144 [42 USCS §§ 10164] that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act.</p> <p>(b) Limitation. The Secretary may not select a site under subsection (a) until the Secretary recommends to the President the approval of a site for development as a repository under section 114(a) [42 USCS § 10134(a)].</p> <p>(c) Site specific activities. The Secretary may conduct such site specific activities at each site surveyed under section 144 [42 USCS § 10164] as he determines may be necessary to support an application to the Commission for a license to construct a monitored retrievable storage facility at such site.</p> <p>(d) Environmental assessment. Site specific activities and selection of a site under this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare an environmental assessment with respect to such selection in accordance with regulations issued by the Secretary implementing such Act; [42 USCS §§ 4321 et seq.]. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such site is selected.</p> <p>(e) Notification before selection.</p> <p>(1) At least 6 months before selecting a site under subsection (a), the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such potential selection and the basis for such selection.</p> <p>(2) Before selecting any site under subsection (a), the Secretary shall hold at least one public hearing in the vicinity of such site to solicit any recommendations of interested parties with respect to issues raised by the selection of such site.</p> <p>(f) Notification of selection. The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under subsection (a).</p> <p>(g) Limitation. No monitored retrievable storage facility authorized pursuant to section 142(b) [42 USCS § 10162(b)] may be constructed in the State of Nevada.</p>	<ul style="list-style-type: none"> ▪ Requires EA, not EIS ▪ EA to be "based on available information" ▪ Submit EA to Congress ▪ 6-month advance notice of selection to State (Gov and legis.)

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 10168	Disposal of high-level radioactive waste	<p>(a) Environmental impact statement.</p> <p>(1) Once the selection of a site is effective under section 146 [42 USCS § 10166], the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of a monitored retrievable storage facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility or any alternative to the design criteria for such facility set forth in section 141(b)(1) [42 USCS § 10161(b)(1)].</p> <p>(2) Nothing in this section shall be construed to limit the consideration of alternative facility designs consistent with the criteria described in section 141(b)(1) [42 USCS § 10161(b)(1)] in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored retrievable storage facility authorized under section 142(b) [42 USCS § 10162(b)].</p>	<ul style="list-style-type: none"> NEPA review required for construction itself Not required to consider need or alternatives
42 USC 10196	Disposal of high-level radioactive waste	<p>§ 10196. Federal agency actions</p> <p>(a) Cooperation and coordination. Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title [42 USCS §§ 10191 et seq.] and the mission plan under section 301 [42 USCS § 10221].</p> <p>(b) Environmental review.</p> <p>(1) No action of the Secretary or any other Federal agency required by this title [42 USCS §§ 10191 et seq.] or section 301 [42 USCS § 10221] with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title [42 USCS §§ 10191 et seq.].</p> <p>(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).</p>	<ul style="list-style-type: none"> Affirmative duty to help prepare NEPA studies Waiver of NEPA requirements Discourages duplication of effort
42 USC 10197	Disposal of high-level radioactive waste	<p>(g) Environmental review. The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorporate, to the extent practicable, the environmental assessment prepared under section 217(a) [subsec. (a) of this section]. Nothing in this subsection may be construed to limit siting research activities conducted under section 214 [42 USCS § 10194]. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.</p>	<ul style="list-style-type: none"> Directs EIS to be prepared and to incorp. Materials from previous EA

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
42 USC 10247	Nuclear waste	<p>(a) In general. Issuance of a construction authorization for a repository or monitored retrievable storage facility under section 405(b) [42 USCS § 10245 (b)] shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).</p> <p>(b) Preparation. A final environmental impact statement shall be prepared by the Secretary under such Act [42 USCS §§ 4321 et seq.] and shall accompany any application to the Nuclear Regulatory Commission for a construction authorization.</p> <p>(c) Adoption.</p> <p>(1) Any such environmental impact statement shall, to the extent practicable, be adopted by the Nuclear Regulatory Commission, in accordance with section 1506.3 of title 40, Code of Federal Regulations, in connection with the issuance by the Nuclear Regulatory Commission of a construction authorization and license for such repository or monitored retrievable storage facility.</p> <p>(2) (A) In any such statement prepared with respect to a repository to be constructed under this title at the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.</p> <p>(B) In any such statement prepared with respect to a repository to be constructed under this title [42 USCS §§ 10241 et seq.] at a site other than the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, or nongeologic alternatives to such site but shall consider the Yucca Mountain site as an alternate to such site in the preparation of such statement.</p>	<ul style="list-style-type: none"> ▪ Limits scope of EIS – ▪ Not required to consider need, alternatives, timing

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
43 usc 1351	Submerged Lands – OCSLA	<p>(h) Approval, disapproval or modification of plan; reapplication; periodic review.</p> <p>(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act [43 USCS § 1334(a)(8)]. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act [16 USCS § 1456(c)(3)(B)(i) or (ii)] unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 USCS § 1456(c)(3)(B)(iii)]. The Secretary shall disapprove a plan--</p> <p>(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act [43 USCS § 1334(a)(8)];</p> <p>(B) if any of the activities described in detail in the plan for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) do not receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act [16 USCS § 1456(c)(3)(B)(i) or (ii)] and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 USCS § 1456(c)(3)(b)(iii)];</p> <p>(C) if operations threaten national security or national defense; or</p> <p>(D) if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.</p>	<ul style="list-style-type: none"> ▪ Deadline for decision – 60 days after FEIS

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CITE	SUBJECT	TEXT	KEY ELEMENTS
43 USC 1638	ANCSA	The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native Corporations, pursuant to the Alaska Native Claims Settlement Act, or this Act. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act [43 USCS § 1613 (h)(3)].	<ul style="list-style-type: none"> NEPA waiver – EIS not required
43 USC 1652	Trans Alaska Pipeline System	<p>(a) Congressional declaration of purpose. The purpose of this title [43 USCS §§ 1651 et seq.] is to insure that, because of the extensive governmental studies already made of this project and the national interest in early delivery of North Slope oil to domestic markets, the trans-Alaska oil pipeline be constructed promptly without further administrative or judicial delay or impediment. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made and in limiting judicial review of the actions taken pursuant thereto.</p> <p>(b) Issuance, administration, and enforcement of rights-of-way, permits, leases, and other authorizations. The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce rights-of-way, permits, leases, and other authorizations that are necessary for or related to the construction, operation, and maintenance of the trans-Alaska oil pipeline system, including roads and airstrips, as that system is generally described in the Final Environmental Impact Statement issued by the Department of the Interior on March 20, 1972. The route of the pipeline may be modified by the Secretary to provide during construction greater environmental protection.</p> <p>(c) Applicability of statutes governing rights-of-way for pipelines through Federal lands; other statutory terms and conditions; waiver of procedural requirements; supersedure of administrative authorizations for construction. Rights-of-way, permits, leases, and other authorizations issued pursuant to this title [43 USCS §§ 1651 et seq.] by the Secretary shall be subject to the provisions of section 28 of the Mineral Leasing Act of 1920 [30 USCS § 185], as amended by title I of this Act (except the provisions of subsections (h)(1), (k), (q), (w)(2), and (x)); all authorizations issued by the Secretary and other Federal officers and agencies pursuant to this title shall include the terms and conditions required, and may include the terms and conditions permitted, by the provisions of law that would otherwise be applicable if this title [43 USCS §§ 1651 et seq.] had not been enacted, and they may waive any procedural requirements of law or regulation which they deem desirable to waive in order to accomplish the purposes of this title [43 USCS §§ 1651 et seq.]. The direction contained in section 203(b) [subsec. (b) of this section] shall supersede the provisions of any law or regulation relating to an administrative determination as to whether the authorizations for construction of the trans-Alaska oil pipeline shall be issued.</p>	<ul style="list-style-type: none"> “Intent to exercise powers to fullest extent” “National interest in early delivery” Order all permits, ROWs, etc. to be issued for route described in FEIS Allows waiver of procedural requirements if deemed “desirable”

Legislation Limiting NEPA and Other Environmental Requirements

CITE	SUBJECT	TEXT	KEY ELEMENTS
43 USC 1652	Trans Alaska Pipeline System	<p>(d) National Environmental Policy Act of 1969 bypassed; issuance of authorizations for construction and operation not to be subject to judicial review; time limits on charges of invalidity or unconstitutionality; jurisdiction; hearings; review. The actions taken pursuant to this title [43 USCS §§ 1651 et seq.] which relate to the construction and completion of the pipeline system, and to the applications filed in connection therewith necessary to the pipeline's operation at full capacity, as described in the Final Environmental Impact Statement of the Department of the Interior, shall be taken without further action under the National Environmental Policy Act of 1969; and the actions of the Federal officers concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for construction and initial operation at full capacity of said pipeline system shall not be subject to judicial review under any law except that claims alleging the invalidity of this section may be brought within sixty days following its enactment [enacted Nov. 16, 1973], and the claims alleging that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by this title [43 USCS §§ 1651 et seq.], may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act [enacted Nov. 16, 1973]. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. An interlocutory or final judgment, decree, or order of such district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.</p> <p>(e) Amendment or modification of rights-of-way, permits, leases, or other authorizations. The Secretary of the Interior and the other Federal officers and agencies are authorized at any time when necessary to protect the public interest, pursuant to the authority of this section and in accordance with its provisions, to amend or modify any right-of-way, permit, lease, or other authorization issued under this title [43 USCS §§ 1651 et seq.].</p>	<ul style="list-style-type: none"> ▪ No further NEPA study ▪ Bar all legal claims, except: ▪ 60 days to challenge validity of this statute ▪ 60 days to bring constitutional claim ▪ 60 days to challenge action as beyond statutory authority ▪ Cannot enter injunction except as part of final judgment
43 USC 2005	Crude oil transportation systems	<p>(a) Establishment. The Secretary of the Interior, after consultation with the heads of appropriate Federal agencies, shall establish an expedited schedule for conducting reviews and making recommendations concerning crude oil transportation systems proposed in applications filed under 504 [43 USCS § 2004] and for obtaining information necessary for environmental impact statements required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) with respect to such proposed systems.</p>	<ul style="list-style-type: none"> ▪ Requires expedited schedule

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45 USC 791	Regional rail organizations	(c) Environment. The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)) shall not apply with respect to any action taken under authority of this Act before, and including, the conveyance of rail properties ordered by the special court [United States District Court for the District of Columbia] under section 303(b)(1) of this Act [45 USCS § 743 (b)(1)], and shall not apply thereafter to any action taken in compliance with the requirements of the final system plan	<ul style="list-style-type: none"> ▪ Waiver of NEPA
45 USC 1116	Northeast rail reorganization	<p>§ 1116. Applicability of other laws</p> <p>(a) The provisions of chapters 5 and 7 of title 5 of the United States Code [5 USCS §§ 500 et seq., 701 et seq.] (popularly known as the Administrative Procedure Act and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act [5 USCS Appx.], section 102(2)(C) of the National Environmental Policy Act of 1969 [42 USCS § 4332(2)(C)], the National Historic Preservation Act of 1966 [16 USCS §§ 470 et seq.], and section 4(f) of the Department of Transportation Act of 1966 are inapplicable to actions taken in negotiating, approving, or implementing service transfers under title IV of the Regional Rail Reorganization Act of 1973 and to the implementation of the sale of the interest of the United States in Conrail under the Conrail Privatization Act.</p> <p>(b) The operation of trains by Conrail shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members who must be employed in connection with the operation of such trains.</p>	<ul style="list-style-type: none"> ▪ Waiver of NEPA, APA, FACA, 106, and 4(f)
45 USC 1207	Alaska railroad transfer	(b) Procedures for issuance of certificate of public convenience and necessity; inventory, valuation, or classification of property; additional laws, authorities, etc. applicable. As soon as practicable after the date of enactment of this Act [enacted Jan. 17, 1983], the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362 (b)) shall not apply to actions of the Commission under this subsection.	<ul style="list-style-type: none"> ▪ Waiver of NEPA

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CITE	SUBJECT	TEXT	KEY ELEMENTS
45 USC 1212	Alaska railroad transfer	<p>(a) Actions subject to other laws. The provisions of chapter 5 of title 5, United States Code [5 USCS §§ 500 et seq.], (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title [45 USCS § 1208].</p> <p>(b) Federal surplus property disposal; withdrawal or reservation of land for use of Alaska Railroad. The enactment of this title, actions taken during the transition period as provided in section 605 of this title [45 USCS § 1204], and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.</p> <p>(c) Ceiling on Government contributions for Federal employees health benefits insurance premiums. Beginning on the date of enactment of this Act [enacted Jan. 14, 1983], the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.</p> <p>(d) Acreage entitlement of State or Native Corporation. Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.</p> <p>(e) Judgments involving interests, etc., of Native Corporations. With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.</p>	<ul style="list-style-type: none"> ▪ Waiver of APA, FACA, NEPA, NHPA, and 4(f) ▪ Waives federal surplus property laws from land transfer

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CITE	SUBJECT	TEXT	KEY ELEMENTS
49 USC 40128	National park overflights	<p>(b) Air tour management plans.</p> <p>(1) Establishment.</p> <p>(A) In general. The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).</p> <p>(B) Objective. The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.</p> <p>(2) Environmental determination. In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement and the record of decision for the air tour management plan.</p> <p>(3) Contents. An air tour management plan for a national park--</p> <p>(A) may prohibit commercial air tour operations in whole or in part;</p> <p>(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;</p> <p>(C) shall apply to all commercial air tour operations within 1/2 mile outside the boundary of a national park;</p> <p>(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;</p> <p>(E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations if the plan includes a limitation on the number of commercial air tour operations for any time period; and</p> <p>(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.</p> <p>(4) Procedure. In establishing an air tour management plan for a national park or tribal lands, the Administrator and the Director shall--</p> <p>(A) hold at least one public meeting with interested parties to develop the air tour management plan;</p> <p>(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;</p> <p>(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency); and</p> <p>(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency under the regulations referred to in subparagraph (C).</p> <p>...</p>	<ul style="list-style-type: none"> ▪ Directs FAA and NPS to prepare joint study and decision documents – in effect, co-lead agencies